

January 23, 2012

MEMO: To file from Patricia Kirk

I talked to Mark Peterson, Richard Martin's attorney to discuss trust water donations CG4-153381CL@1, CG4-046385CL@1 and CG4-2⁴374C@1 filed in 2011.

I told Mr. Peterson that Ecology would base the quantity of a trust water donation on the face value of the water right documents and not water used in excess of the those amounts. Since the donations are to be based on increased efficiency and not fallowing land and the two water right claims indicate quantities that are inadequate for irrigation of the associated acreage, there wasn't water available for donation even with increased efficiency.

After reviewing the files for donation and the associated water rights CG4-23693C, G4-24374C, G4-046381CL and G4-1553381CL, I recommended to Mr. Peterson that he file for amendments to the two water right claims to more accurately reflect the historic irrigation use on the parcels identified as the places of use. If and when the two claim are successfully amended, **and** the more efficient irrigation system is installed (Mr. Peterson indicated as of the above date the more efficient irrigation system had **not** been installed) that would be a good time to apply for a trust donation.

Mark Peterson felt that the current applications should be kept on file to maintain their filing date. I hold him that this was not important until the irrigation system is upgraded since there is no water to donate at this time- that the water is already being beneficially used. He felt that there was water to donate, based on what was unclear. He said he would pursue the claims amendments but would like the files to remain active. The donations are for the irrigation seasons up and including 2014.



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

15 W Yakima Ave, Ste 200 • Yakima, WA 98902-3452 • (509) 575-2490

December 19, 2011

Mark Peterson
Peterson Law Office
1227 First Street
Wenatchee, WA 98801

RE: Trust Applications for CG4-046385CL@1, CG4-153381CL@1 and CG4-24374@1

Dear Mr. Peterson:

I received your letter dated November 17, 2011 in which you indicate that the application files referenced above already have the information I requested of your client Richard Martin. Unfortunately, that is not the case. Most importantly, there are **no** dates when changes have been made on the irrigated lands in question.

Since Mr. Martin's annual water use under the indicated claims exceeds the quantities on the claim documents, he could request amendments to the claims under RCW 90.14.065. If granted, this would be a useful step toward accurately recording the historic irrigation practices on Mr. Martin's property. The Trust Water Program will not accept water into Trust that is not asserted on the Water Right Claims.

Sincerely,

Patricia Kirk
Trust Water Coordinator
Office of Columbia River

PK:RAZ (111216)

CC: Richard Martin
PO Box 73
Orondo, WA 98843-007

FILE COPY



Peterson Law Office

1227 First Street

Wenatchee, WA 98801

November 17, 2011



c/o Patricia Kirk
Department of Ecology
15 W Yakima Ave, Ste 200
Yakima, WA 98902-3452

Re: Trust Applications for CG-046385CL@1, CG4-153381CL@1 and
CG424374C@1

Dear Patricia,

I am responding to your letter dated 11/8/2011 regarding the above referenced trust applications. Mr. Perkow's previous correspondence indicated that he believed that there was a substantial surplus of beneficial use to associate with these rights. In response, Mr. Martin proposed to increase efficiency, remove cover crop and/or acquire additional rights. Mr. Martin did acquire additional rights and, after incurring substantial expense, is poised to implement both those additional rights and increased efficiencies, but wants to be sure that he retains the surplus water that is created by these efforts, rather than loose it to relinquishment.

There is ample correspondence in the files that you allege to have reviewed to communicate these facts. Moreover, I remain available by phone to discuss this at any time. Each application contains the calculations of historic and proposed use from which the surplus is expected. Each application asserts that cover crop is included in that calculation. Each describes the place of use and the parcel numbers associated with that place of use. I find all of the information you request already in the required forms in the required locations. Please call if you have difficulty locating what you need.

You note that in some cases the quantities asserted in the application exceed that of the subject claim document. It is well settled law that the claim document needs only to substantially comply with the filing requirements and that beneficial use remains the measure of the right.

Sincerely,
Mark Peterson

A handwritten signature in black ink, appearing to be "Mark Peterson".



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

15 W Yakima Ave, Ste 200 • Yakima, WA 98902-3452 • (509) 575-2490

November 8, 2011

Richard Martin
PO Box 73
Orondo, WA 98843-007

Dear Mr. Martin:

I am writing to you in reference to the Applications for Trust Water Donations CG-046385CL@1, CG4-153381CL@1, and CG4-24374C@1. After reviewing each file and the Applications for Change files on the same water right claims and certificate, along with a discussion with Tom Perkow, I was unable to determine needed details about your irrigation practices.

Before I can process the donation applications I need to know the year the new, more efficient irrigation system was first installed and on which parcels. The six parcels I am interested in are numbered 25-21-29-40019, 25-21-29-40020, 25-21-29-40005, 25-21-28-30006, 25-21-28-30008 and 25-21-28-30003. There is an indication that a cover crop may still be irrigated in some portion of the orchard. If this is the case, how many acres within the six parcels contain the cover crop and how is it irrigated?

In order to calculate the quantity of water available for donation, especially when increased irrigation efficiency is the source of that water, a thorough understanding of the historic irrigation practice on the acreage indicated on the Trust Applications is important. Please be advised that if the system was upgraded more than five years ago, there may be little or no water to donate since that portion of the historic water use that is no longer needed, due to increased efficiency, may have relinquished under RCW 90.14.160. It is also important to understand that the annual quantities (acre-feet/year) indicated on the water right documents covering the parcels above referenced is the maximum amount of water that can be considered historically used. The historic annual quantities of water used for irrigation indicated by your attorney Mark Peterson on the Applications for Trust Donations CG4-153381CL@1 and CG4-046385CL@1 far exceed the annual quantities the corresponding claims allow for irrigation.

The irrigation water you acquired under Water Right Change No. CG4-23693C will be taken into account; however, its use is on acreage not previously covered by any water right and assumes the more efficient delivery of water already.

Please send a list of the above mentioned parcel numbers with the corresponding irrigated acreage of cover crop, irrigation method(s) and installation date(s). If you have any question, I can be reached at (509)249-6299.

Sincerely,

Patricia Kirk
Trust Water Coordinator
Office of Columbia River

PK:RAZ (111114)

CC: Mark Peterson

FILE COPY





STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

15 West Yakima Avenue, Suite 200 • Yakima, Washington 98902-3452 • (509) 575-2490

April 6, 2011

Richard Martin
PO Box 73
Orondo WA 98843-0073

Re: Water Right Change Application Nos. CG4-24374C@1, CG4-153381CL@1 and
CG4-046385CL@1

Dear Mr. Martin:

We have received your trust water right applications and have assigned the application numbers shown above. Please use these numbers in future communications with our office.

If you have any questions, please contact Teresa Mitchell at 509-575-2597.

Sincerely,

Mark C. Schuppe
Section Manager
Water Resources Program

MCS:hd
110404

cc: Mark Peterson

App-trustwater.doc

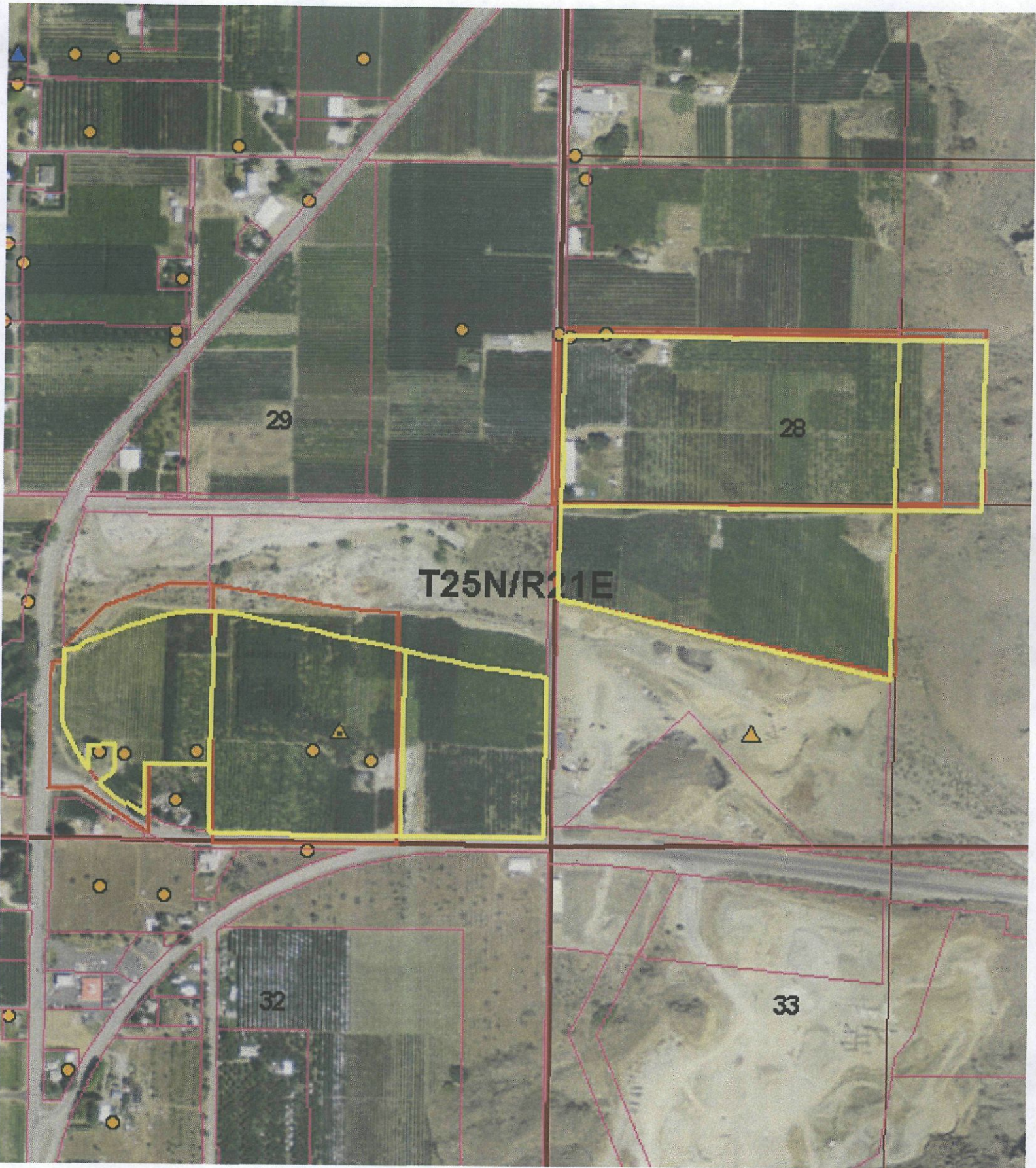


FILE COPY

Water Right Tracking System
Department of Ecology
WR Document List Sorted By File # Report

Reported By: SAND461																
Report Date: 4/5/2011																
File #	Person	Stat	Doc	Priority Dt	Purpose	Qi	UOM	Qa	Ir Acres	WRIA	County	TRS	QQ/Q	Src's	1stSrc	
CG4-046385CL	Martin Richard A & Terri L	A	ChgApp	2/16/2010	IR	450	GPM		18.33	44	DOUGLAS	25.0N 21.0E 29	SE/SE	1	WELL	
CG4-046385CL@1	Martin Richard	A	ChgApp	4/1/2011	IFlow		GPM			44	DOUGLAS	25.0N 21.0E 29		1	WELL	
CG4-153381CL	Martin Richard A & Terri L	A	ChgApp	2/16/2010	IR,DG	100	GPM		10.47	44	DOUGLAS	25.0N 21.0E 29	SW/SE	1	WELL	
CG4-153381CL@1	Martin Richard	A	ChgApp	4/1/2011	IFlow		GPM	13.5		44	DOUGLAS	25.0N 21.0E 29	SW/SE	1	WELL	
CG4-24374C	Martin Richard A & Terri L	A	ChgApp	2/16/2010	IR,DM	270	GPM	118	30.25	44	DOUGLAS	25.0N 21.0E 28	NW/SW	1	WELL	
CG4-24374C@1	Martin Richard	A	ChgApp	4/1/2011	IFlow		GPM	37.14		44	DOUGLAS	25.0N 21.0E 28	NW/SW	1	WELL	
TOTAL RECORDS:	6															
SELECTION CRITERIA																
Assignment Type																
Person																
Role																
Region																
Doc Type																

PARCEL_NUM	CURRENT_O
25212830008	MARTIN, RICHARD A & TERRI L
25212830003	MARTIN, RICHARD A & TERRI L
25212830006	MARTIN, RICHARD A & TERRI L
25212940005	MARTIN, RICHARD A & TERRI L
25212940019	MARTIN, RICHARD A & TERRI L
25212940020	MARTIN, RICHARD A & TERRI L



MEMORANDUM

Water Right Claim 153381

Due to a proposed change to this claim, I called the original claimant, Lael Vickery, on March 5, 2010, to gather more information on the date of first use. I had found a Lael Vickery in the phone book whose phone number matched the number given on the claim form. Mr. Vickery now lives in East Wenatchee. I first confirmed with Mr. Vickery that he had owned the land described on the claim form. Mr. Vickery confirmed that he had: his parents had moved out from back east to this area in 1944. Mr. Vickery indicated that 1960 was the first use out of the well given on the claim. This was a replacement well. The replacement well was drilled after Rock Island Dam was raised and the original well flooded. Mr. Vickery indicated that, as of spring, 1944, when his parents, with children in tow, moved to the area, the orchard was irrigated out of the now-submerged well. Mr. Vickery was certain it had been irrigated even before then, but he could not recall the source.

Thomas Perkow – March 30, 2010.



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
WATER RIGHT CLAIMS REGISTRATION

WATER RIGHT CLAIM

1. NAME LAEL F. VICKERY
ADDRESS 2501 S.E. 8th ST.
EAST WENATCHEE, W.N. ZIP CODE 98801 PHONE NO. 884-5292
2. SOURCE FROM WHICH THE RIGHT TO TAKE AND MAKE USE OF WATER IS CLAIMED: GROUND WATER
(SURFACE OR GROUND WATER)
W.R.I.A. 46 (LEAVE BLANK)
- A. IF GROUND WATER, THE SOURCE IS A WELL
- B. IF SURFACE WATER, THE SOURCE IS _____
3. THE QUANTITIES OF WATER AND TIMES OF USE CLAIMED:
- A. QUANTITY OF WATER CLAIMED 100 gpm PRESENTLY USED 100 gpm
(CUBIC FEET PER SECOND OR GALLONS PER MINUTE)
- B. ANNUAL QUANTITY CLAIMED 18 acre-foot PRESENTLY USED 18 ACRE-FOOT
(ACRE FEET PER YEAR)
- C. IF FOR IRRIGATION, ACRES CLAIMED 8 ACRES PRESENTLY IRRIGATED 8 ACRES
- D. TIME(S) DURING EACH YEAR WHEN WATER IS USED: continuously
4. DATE OF FIRST PUTTING WATER TO USE: MONTH MARCH YEAR 1960
5. LOCATION OF THE POINT(S) OF DIVERSION/WITHDRAWAL: _____ FEET _____ AND _____
FEET _____ FROM THE (ON THE ATTACHED SHEET) CORNER OF SECTION _____
BEING WITHIN _____ OF SECTION 29 T. 25 N., R. 21 E (E. OR W.) W.M.
IF THIS IS WITHIN THE LIMITS OF A RECORDED PLATTED PROPERTY, LOT _____ BLOCK _____ OF _____
(GIVE NAME OF PLAT OR ADDITION)
6. LEGAL DESCRIPTION OF LANDS ON WHICH THE WATER IS USED: IN THE COUNTY OF DOUGLAS, STATE
OF WASH. THAT PORTION OF LOT 8, SECTION 29,
TOWNSHIP 25 NORTH, RANGE 21 E.W.M., DESCRIBED
AS FOLLOWS: (ON ATTACHED SHEET)
- _____ COUNTY DOUGLAS
7. PURPOSE(S) FOR WHICH WATER IS USED: DOMESTIC AND IRRIGATION
8. THE LEGAL DOCTRINE(S) UPON WHICH THE RIGHT OF CLAIM IS BASED: APPROPRIATION AND
FOR RIPARIAN.

DO NOT USE THIS SPACE:

THE FILING OF A STATEMENT OF CLAIM DOES NOT CONSTITUTE AN ADJUDICATION OF ANY CLAIM TO THE RIGHT TO USE OF WATERS AS BETWEEN THE WATER USE CLAIMANT AND THE STATE OR AS BETWEEN ONE OR MORE WATER USE CLAIMANTS AND ANOTHER OR OTHERS. THIS ACKNOWLEDGEMENT CONSTITUTES RECEIPT FOR THE FILING FEE.

DATE RETURNED: _____ THIS HAS BEEN ASSIGNED WATER RIGHT CLAIM REGISTRY NO. _____

I HEREBY SWEAR THAT THE ABOVE INFORMATION IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF.

X Lael F. Vickery
DATE 6-28-74

IF CLAIM FILED BY DESIGNATED REPRESENTATIVE, PRINT OR TYPE FULL NAME AND MAILING ADDRESS OF AGENT BELOW

☒ ADDITIONAL INFORMATION RELATING TO WATER QUALITY AND/OR WELL CONSTRUCTION IS AVAILABLE

A FEE OF \$2.00 MUST ACCOMPANY THIS WATER RIGHT CLAIM

RETURN ALL THREE COPIES WITH CARBONS INTACT, ALONG WITH YOUR FEE TO:
DEPARTMENT OF ECOLOGY
WATER RIGHT CLAIMS REGISTRATION
OLYMPIA, WASHINGTON 98504

ORIGINAL DWR